

TEXAS APPRAISER LICENSING AND
CERTIFICATION BOARD

VS.

BRADFORD EDGAR TX-1322130-R

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DOCKETED COMPLAINT NO. 04-110

AMENDED AGREED FINAL ORDER

On this the 9th day of February, 2007, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Bradford Edgar, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

FINDINGS OF FACT

1. Respondent Bradford Edgar, a state certified residential real estate appraiser, holds certification number TX-1322130-R, and has maintained this certification in good standing for approximately 15 years.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103 et seq. (the Act), the Rules of the Board, 22 TEX. OCC. CODE § 153, 155, 157 (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. On or about January 13th, 2003 and March 22nd, 2004, Respondent conducted an appraisal of a property located at 1004 South Wellington Point Road, McKinney, Collin County, Texas 75070 ("the property") for the client, Reliance Mortgage Company.
4. On May 12th, 2004, TALCB received a complaint against Respondent from Steve Nichols, a real estate appraiser, in accordance with TEX. OCC. CODE § 1103.451. The complaint alleged that Respondent's appraisal reports on the subject property were misleading and had numerous discrepancies.
5. On or about October 1st, 2004, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. § 2001 et. seq., notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response was received.
6. There is a disagreement concerning the adequacy of the appraisal performed by Respondent. In an effort to resolve this matter and avoid the cost and uncertainty of protracted litigation, the Board and Respondent have reached an agreed upon settlement as detailed in this Amended Agreed Final Order.

7. The Enforcement Division contends that both of Respondent's appraisal reports for the property violated the Act, the Rules of the Board, and USPAP by the following acts or omissions:

- a) USPAP Standards 1-3(b) & 2-2(b)(x) – Respondent failed to provide a summary of his rationale and support for his determination of the property's highest and best use;
- b) USPAP Standards 1-4(b)(i) & 2-2(b)(ix) – Respondent did not use an appropriate method or technique to develop an opinion of site value because he failed to provide any data in his work file to support his conclusions;
- c) USPAP Standards 1-4(b)(ii) & 2-2(b)(ix) – Respondent did not properly collect, verify, analyze and reconcile the cost new of improvements. His reference to Marshall & Swift data is inaccurate because Marshall and Swift cost data does not support his cost figures. In addition his site improvement cost is excessive for landscaping and fencing. Overall, Respondent's cost approach is inflated;
- d) USPAP Standards 1-1(a) & 1-4(b) – For the reasons noted above, Respondent failed to correctly employ recognized methods and techniques in his cost approach which made the cost approach inflated and not credible;
- e) USPAP Standards 1-4(a) & 2-2(b)(ix) – Respondent has failed to adequately collect, verify, analyze and reconcile comparable sales data. Respondent failed to use appropriate comparable sales data. With regard to the March 2004 report, Respondent reported inaccurate square footage of comparable sale 1, erroneously adjusted sale 2 upward by \$100,000.00 for site value and reported that sale 3 was contained in MLS when it was not. In both reports, better comparable sales were readily available in the immediate area and should have been used but were not;
- f) USPAP Standards 1-1(a) & 1-4(a) – As noted above, Respondent failed to correctly employ recognized methods and techniques. He failed to use appropriate data and/or did not make appropriate adjustments to the data that was used;
- g) USPAP Standards 1-5(a) & 2-2(b)(ix) – Respondent failed to report and analyze the current listing for the property being appraised, which was over \$150,000.00 less than the appraised value Respondent reported and had been on the market for some 208 days. Respondent failed to reconcile this information with his opinion of value;
- h) USPAP Standards 1-5(b) & 2-2(b)(ix) – Respondent failed to adequately analyze all sales of the subject property within 3 years prior to the effective date of his appraisals because he failed to indicate that the subject had sold for much less than the listed price of \$625,000.00;
- i) USPAP Standards 1-6(a) & (b) & 2-2(b)(ix) – Respondent made a flawed attempt at reconciliation which was predicated on inappropriate data;

- j) USPAP Standard 1-1(a) – Respondent made incorrect selection of market data and made incorrect adjustments thereby creating reports that were not credible;
 - k) USPAP Standard 1-1(b) – As noted above, Respondent made substantial errors of both omission and commission that seriously affected his appraisal reports;
 - l) USPAP Standard 1-1(c) – As noted above, Respondent rendered appraisal services in a negligent manner by not using similar market data for analysis nor considering the long marketing history of the subject;
 - m) USPAP Standard 2-1(a) – Respondent's appraisal reports were misleading to readers because of problems with Respondent's cost approach, his sales comparison approach and his failure to properly disclose and analyze the prior listing of the subject property; and,
 - n) USPAP Standard 2-1(b) – Respondent's reports did not provide the intended user with useful data or analysis to enable the user to understand the reports properly.
8. The Enforcement Division contends that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by failing to conform to USPAP in effect at the time of both appraisal reports.
9. The Enforcement Division also contends that the Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations and omissions of material facts in both appraisal reports. These material misrepresentations and omissions of material fact include: using inappropriate comparable sales when more appropriate comparable sales that should have been used were readily available in the same area, using inappropriate cost figures in the cost approach and failing to report the current listing of the property and the previous sales price for sales within three years of the date of his appraisal.

CONCLUSIONS OF LAW

1. Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE §§ 1103.451-1103.5535 (Vernon 2005).
2. The Enforcement Division contends that with regard to both reports on the property Respondent violated the following USPAP provisions as prohibited by 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a): USPAP Standards Rules: 1-3(b) & 2-2(b)(x); 1-4 (b)(i) & 2-2(b)(ix); 1-4(b)(ii) & 2-2(b)(ix); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(ix); 1-1(a) & 1-4(a); 1-5(a) & 2-2(b)(ix); 1-5(b) & 2-2(b)(ix); 1-6(a) & (b) & 2-2(b)(ix); 1-1(a); 1-1(b), 1-1(c), 2-1(a), and 2-1(b).

3. The Enforcement Division contends that with regard to both reports on the property Respondent violated 22 TEX. ADMIN. CODE §§ 153.20(a)(9) by making material misrepresentations and omissions of material facts in both appraisal reports.

Based on the above findings of fact and conclusions of law, the Board ORDERS that Respondent shall:

1. Pay to the Board an Administrative Penalty of \$1,500.00;
2. Attend and complete a minimum, 15 classroom-hour course in USPAP;
3. Attend and complete a minimum, 15 classroom-hour course in the sales comparison approach;
4. Attend and complete a minimum, 15 classroom-hour course in residential case studies;
5. Have his certification suspended for 2 years, with the suspension being fully probated under the condition that Respondent shall not sponsor more than one appraiser trainee during the first year of this 2 year period; and,
6. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future, or be subjected to further disciplinary action.

Payment of the ADMINISTRATIVE PENALTY must be by certified funds, and must be completed within SIXTY DAYS of the date of this Amended Agreed Final Order. Failure to pay the administrative penalty within the time allotted shall result in IMMEDIATE SUSPENSION of Respondent's license pursuant to notice to Respondent from the Board indicating that Respondent has not paid the administrative penalty.

ALL CLASSES required by this Amended Agreed Final Order must be classes approved by the Board and must be completed within TWELVE MONTHS of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the twelve-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. All classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure.

Failure to complete the education required by this Amended Agreed Final Order within the time allotted shall result in IMMEDIATE SUSPENSION of the Respondent's license pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the educational requirements of this Amended Agreed Final Order.

ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE

PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS. Respondent shall be notified of any such suspension or lifting of probation by certified mail, return receipt requested, to the last known address as provided to the Board. If Respondent's license is suspended on such a basis, the suspension shall remain in effect until such time as Respondent pays the Administrative Penalty or takes and passes the required educational courses and provides adequate documentation of same to the Board.


Respondent, by signing this Amended Agreed Final Order, neither admits nor denies that the findings of fact and conclusions of law herein set forth are correct; however, Respondent consents to the entry of this Amended Agreed Order to avoid the expense of litigation and to reach an expeditious resolution of this matter. Respondent also agrees to satisfactorily comply with the mandates of this Amended Agreed Final Order in a timely manner.

Respondent, by signing this Amended Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Amended Agreed Final Order. Information about this Amended Agreed Final Order is subject to public information requests and notice of this Amended Agreed Final Order will be published in the Board's newsletter and/or on the Board's web site.

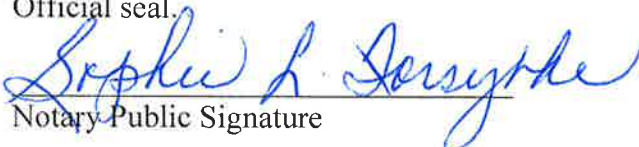
THE DATE OF THIS AMENDED AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Amended Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 7th day of November, 2007.


BRADFORD EDGAR


CRAIG L. DOWIS, ATTORNEY FOR
BRADFORD EDGAR

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 7th day of November, 2006, by BRADFORD EDGAR, to certify which, witness my hand and Official seal.


Notary Public Signature


SOPHIE L. FORSYTHE
Notary Public's Printed Name



Signed by the Commissioner this 5th day of February, 2007.


Wayne Thorburn, Commissioner
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 9 day of FEBRUARY, 2007.


LARRY D. KOIKER
Shirley Ward, Chairperson
Texas Appraiser Licensing and Certification Board